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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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The Berkshire Gas Company) D. T. E. 99-116

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BRIEF OF THE

BERKSHIRE GAS COMPANY

On December 30, 1999 The Berkshire Gas Company ("Berkshire" or the "Company") filed a Petition for Authorization by the Department of Telecommunications and Energy to Carry on its Business in the Town of Sunderland, Massachusetts, Pursuant to the Provisions of G. L. c. 164, §30. Karen L. Zink, Vice President of Marketing and Resource Planning for Berkshire testified in support of the Company's petition. See Exh. KLZ-1. The Company provided responses to thirty-three information requests issued by the Department's staff and three record requests raised during the evidentiary hearing held at the Department's offices on May 9, 2000.

In prior proceedings pursuant to G. L. c. 164, §30, the Department has held that it may:

[A]uthorize a gas or electric company to carry on its business in any town in the commonwealth other than the town named in its agreement of association or charter, subject to sections eighty-six to eighty-eight, inclusive, and it may purchase, hold and convey real and personal estate in such other town necessary for carrying on its business herein.

The Department has applied a public interest standard in assessing such petitions. Bay State Gas Company, D. P. U. 87-62 (1987); Bay State Gas Company, D. P. U. 86-138/86-179, p. 6 (1987). The Department has considered whether the particular town is already served by a local distribution company, whether there is support for

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the petition from the town and potential customers and whether the petitioner can provide service to customers in the new community without adversely affecting service to existing customers. Id.

Berkshire demonstrated that Sunderland is not served by any other local distribution company and, in fact, is unlikely to receive service except from Berkshire. Exh. KLZ-1, p. 3, Att. A. Berkshire demonstrated support for the extension of its service area from both the Town of Sunderland and potential customers. Exh. DTE 1-7; Exh. KLZ-1, Att. D. Berkshire also demonstrated that, upon receipt of Department approval, it will likely secure commitments from customers adequate to support the necessary main extension and related construction. Tr. 28-29; DTE-RR-3. Upon securing such commitments, Berkshire demonstrated that it maintains adequate resources and had developed a sound construction plan for the planned extension into Sunderland. Exh. DTE 1-16; Exh. DTE 1-19; DTE-RR-3.

Accordingly, Berkshire Gas has demonstrated that the expansion of its service area to include the Town of Sunderland is in the public interest. Berkshire respectfully requests that the Department issue an order in this proceeding and take such action as is necessary and appropriate to enable Berkshire to carry on its business in the Town of Sunderland. Pursuant to 220 CMR 1.11(4)(d), Berkshire has attached a draft form of order to this brief for consideration by the Department.

Respectfully submitted,

The Berkshire Gas Company

By its attorneys

James M. Avery, Esq.

K. Jill Rizzotti, Esq.

Rich, May, Bilodeau & Flaherty, P.C.

176 Federal Street

Boston, MA 02110

May 16, 2000